IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.209 OF 2006
IN
SUIT NO.256 OF 1999

Banwarilal H. Khaitan Plaintiff

versus

PLA Exports Pvt.Ltd. & others Defendants

Ms.Indu Varma i/by Suri Neeti Legal.

Mr.U.M.Singh i/by Mahimtura & Co. for D-1.

Mr.Anil Menon for defendants 2 and 3 and proposed defendant no.4.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th April 2006

PC :

1. The applicant is the original plaintiff. The suit that is filed by him in this Court, claims a declaration that he is exclusive copy right holder in respect of suit film and, therefore, entitled to all rights pertaining thereto. On this basis a decree for permanent injunction is also claimed against original defendants restraining them from releasing, exhibiting and exploiting as also telecasting the suit film.

2. In the Chamber Summons which is taken out for amendment of the plaint, the plaintiff now seeks to incorporate subsequent events namely that the original defendant no.1 has after the suit was filed purported to create some rights in favour of the suit film and on that basis the suit film was telecasted. According to the plaintiff, all these facts were known to him during the course of interlocutory proceedings. There is correspondence referred to and ultimately further rights created are sought to be brought within the frame work of the existing suit.

3. It is well settled that all amendments which help and assist the Court in completely and effectually resolving the controversy should be granted. One principle of grant of amendment is to avoid multiplicity of proceedings.

4. Learned counsel appearing for original defendants and the proposed defendants submit that the amendment application cannot be granted as it is hopelessly belated. The facts were known to the plaintiff for past seven years or so and yet no steps were taken to bring the same on record. The amendments are, therefore, time

barred. The next submission is that virtually a new plaint will be brought on record of suit as exhaustive amendments are sought to be incorporated to the existing plaint.

5. As far as first submission is concerned, it is well settled that amendment can be allowed subject to issue of limitation being kept open. Merely because amendment to pleadings are permitted, the issue is not answered and it will be open for the parties including the newly added defendants to raise appropriate pleas. Equally, it will be for this Court to frame appropriate issue in that behalf.

6. As far as second submission is concerned, there is no merit therein because the suit essentially is to assert right, title and interest of the plaintiff in the suit film and that cause of action and the relief claimed based thereon, is not altered in any manner. All that is being placed on record is particulars with regard to the right being sought to be taken away by further acts of parties to the suit. Since parties in whose favour the rights are purportedly created are also affected, they are sought to be implemented as defendants to the

suit. Therefore, it is not as if the amendment changes the cause of action or alters the structure of suit. The delay in taking out a Chamber Summons can be compensated by imposing heavy costs while granting amendments.

7. Accordingly, Chamber Summons is made absolute in terms of prayer clause (a). Amendment to be carried out within a period of two weeks from today. The plaintiff to pay costs quantified at Rs.5,000/-. Payment of costs is condition precedent. It would be open for the defendants as also the newly defendants to file written statement/additional written statement and such pleadings be filed within a period of six weeks from the date of receipt of amended copy of plaint. All contentions on merits of both sides are expressly kept open. Needless to state that amendments being granted, the plaintiff has to comply with the the payment of court fee/additional court fee in the matter.

(S.C.DHARMADHIKARI, J.)